

### Claim Rejection - 35 U.S.C. §102(b)

Claims 1-4 have been rejected under 35 U.S.C. §102(b) as anticipated by Geyssel, U.S. patent no. 4,584,046 (Geyssel). The applicants traverse the rejection based on the following grounds.

As the Office is aware, an anticipation rejection requires that the cited reference teach each and every aspect of the rejected claims. The teaching must be either explicitly taught or must be inherently or impliedly present. Geyssel neither explicitly, inherently, nor impliedly teaches all of the aspects of claims 1-4.

To illustrate, claim 1 recites in part that "the stand up bag lies with a side surface that is generally opposite said receiving surface (3a) resting on the conveyor surface." At least one aspect of this claim excerpt is not taught by Geyssel. Particularly, claim 1 recites that the side surface lying on the conveyor surface is the side that is opposite the straw receiving surface. Geyssel does not teach this aspect of claim 1.

The action refers to col. 1, lines 43-46 and to both the abstract and col. 2, lines 24-31 as support for the incorrect assertion that Geyssel discloses such an arrangement. In contrast, each of these excerpts, even when improperly read without looking at the remaining portions of Geyssel, do not explicitly, inherently, or impliedly teach at least the above aspect of claim 1. Further, when these excerpts are properly read in context with the remainder of Geyssel, it is incontrovertible that Geyssel does not teach at least the above aspect of claim 1. The action then infers, only from these excerpts, that the particular bag orientation and straw application of claim 1 is taught by Geyssel.

However, the first excerpt states only that straws can be attached to bottles, bags, and packages. This excerpt teaches nothing about straw or package angles or orientations.

Further, the second excerpts teach only that the attachment wheel 20 can be reoriented relative to two separate and perpendicular axes. First, the wheel 20 can be tilted sideways relative to an axis 15 that is horizontal and extends parallel to the package. Thus, the wheel can be tilted at different angles  $\alpha$  so that the straws can be applied diagonally (as opposed to vertically) onto a package surface. This is clear upon reviewing Figs. 7 and 8 and col. 6, lines 18-23 in Geyssel. Second, the wheel 20 can be tilted forward and rearward relative to an axis 16 that is horizontal and extends perpendicularly through the package 12. Thus, the wheel can be tilted at different angles  $\beta$  so that straws can be applied to a side surface of the

package 12 that is not perfectly vertical. This is clear upon reviewing Fig. 9 and col. 6, lines 24-29.

Additional excerpts from Geyssel, taken in proper context, reveal that Geyssel teaches only that a straw is to be applied to one side surface 60 of a package, the side surface 60 being oriented opposite another side surface 66 of the package. Each of these side surfaces 60 and 66 is taught in Geyssel as being oriented generally vertically relative to the conveyor surface 13. The *opposite side surface 66 is not taught as resting on the conveyor surface 13*. This is clearly and explicitly set forth at col. 5, line 62 through col. 6, line 6. The opposite side surface 66 is borne against and supported by the guide rail 67 when the straw is applied to the surface 60. The opposite side surface 66 is not borne against the conveyor 13, as claim 1 specifically recites. The structure of claim 1 eliminates the need for the guide rail 67 in Geyssel, and Geyssel teaches no other structure or arrangement.

Thus, though Geyssel teaches that the applicator wheel can be tilted about the axis 15 and the axis 16, the reference *does not teach or suggest that the package 12 can be oriented with a side surface 66 resting on the conveyor 13 while a straw is applied to the opposite side surface 60*. Geyssel teaches only that the package rests on its bottom surface, a straw is applied to one side surface 60, and the opposite side surface rests against the guide rail 67; it teaches nothing else.

Claims 1-4 are neither anticipated nor rendered obvious by the teachings of Geyssel. These claims are in condition for allowance.

### CONCLUSION

Claims 1-4 are in condition for allowance in view of the foregoing remarks. Reconsideration and withdrawal of the rejection based on §102(b) are respectfully solicited.

The examiner is invited to contact the undersigned at the telephone number listed below in order to discuss any remaining issues or matters of form that will place this case in condition for allowance. The undersigned also welcomes the opportunity to discuss the matter, by telephone or personal interview, if that is deemed needed by the Examiner.

This paper is timely filed within two (2) months of the action date, and therefore no fee is due at this time.

Respectfully submitted,

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A handwritten signature in cursive script, reading "Bryan J. Lempia", written over a horizontal line.

Bryan J. Lempia  
Reg. No. 39,746

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**VERSION SHOWING CHANGES MADE**

**In the Specification**

Please amend the specification at page 2, by deleting the third full paragraph beginning with "Said object is ...." and by deleting the fifth full paragraph beginning with "Advantageous developments of ...."